

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

DEC 31 2002

Ex parte FRANK J. BOVA AND WILLIAM A. FRIEDMAN

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2003-0215
Application 09/430,034

ORDER REMANDING TO EXAMINER

On November 20, 2002, a Reply Brief (Paper No. 21) was filed in response to the Examiner's Answer mailed July 12, 2002 (Paper No. 17). The Reply Brief has a certification of mailing dated September 12, 2002. There is no indication in the record of whether or not the examiner has considered the Reply Brief. Section 1.193(b)(1) of the Code of Federal Regulations (1998) states:

(b)(1) Appellant may file a reply brief to an examiner's answer within two months from the date of such examiner's answer..... The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief.

Therefore, it is

ORDERED that the application is remanded to the Examiner for proper response

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to the Reply Brief and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interference be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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